United Nations CCPR/C/HRV/CO/3

International Covenant on Civil and Political Rights

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Human Rights Committee

Concluding observations on the third periodic report of Croatia*

1. The Committee considered the third periodic report submitted by Croatia (CCPR/C/HRV/3) at its 3145th and 3146th meetings, held on 23 and 24 March 2015 (CCPR/C/SR.3145 and 3146). At its 3157th and 3158th meetings , held on 31 March 2015, it adopted the following concluding observations (see CCPR/C/SR.3157 and 3158).

A. Introduction

2. The Committee is grateful to the State party for having accepted the new optional procedure for submission of reports and for submitting its third periodic report in response to the list of issues prior to consideration of reports (CCPR/C/HRV/Q/3), under that procedure. It is gratified to have the opportunity to renew its constructive dialogue with the State party concerning the steps taken by Croatia during the reporting period to apply the Covenant. The Committee thanks the State party for the responses provided by the delegation orally and for the additional information that it has provided in writing.

B. Positive aspects

3. The Committee welcomes the following legislative and institutional steps taken by the State party:

(a) The adoption of the Anti-discrimination Act and its amendments, in 2012;

(b) The adoption of the Asylum Act, in 2010;

(c) The amendment to the Penal Code stipulating stronger penalties for hate crimes, in 2013;

(d) The adoption of the National Programme for Protection and Promotion of Human Rights (2013–2016);

(e) The adoption of the National Policy for Gender Equality (2011–2015);

* *Adopted by the Committee* at its 113th session (16 March–2 April 2015).

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(f) The adoption of the National Strategy for Equalization of Opportunities for Persons with Disabilities (2007–2015);

(g) The adoption of the National Anti-Discrimination Plan (2008–2013);

4. The Committee welcomes the ratification of the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, in 2013.

C. Principal matters of concern and recommendations

National human rights institution

5. While welcoming the establishment in 2012 of the Ombudsman Act, which requires cooperation between the Ombudsman and specialized ombudsmen, the Committee notes with regret the limited follow-up to, and implementation of, the Ombudsman's recommendations. The Committee is concerned, despite the recent increase in funding, about the limited human and financial resources allocated to the Office of the Ombudsman (art. 2).

The State party should provide the Office of the Ombudsman with the financial and human resources necessary to ensure that it can effectively and independently implement its mandate in line with the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles) (General Assembly resolution 48/134, annex). It should also continue its efforts to guarantee coordination between the different ombudsmen offices so as to avoid duplication of tasks, and step up its efforts in responding diligently and promptly to the Ombudsman's recommendations.

Dissemination of the Covenant

6. While noting that international treaties have primacy over domestic law in the State party, the Committee is concerned about the limited number of cases in which the Covenant has been invoked by domestic courts. The Committee is also concerned about the insufficient awareness of the provisions of the Covenant among the judiciary and the legal community, and the insufficient accessibility of such information for civil society, minorities and persons with disabilities (art. 2).

The State party should take appropriate measures to raise awareness of the Covenant among judges, lawyers and prosecutors to ensure that its provisions are taken into account by the domestic courts. It should take effective measures to widely disseminate the Covenant in the State party, and have it translated and made accessible to all.

Ethnic profiling

7. The Committee is concerned about the practice of ethnic profiling by law enforcement officials targeting certain ethnic minorities, particularly Roma, who appear to be disproportionately affected by frequent identity checks and interrogations in the absence of any suspicion of wrongdoing (arts. 2, 9, 12, 17 and 26).

The State party should take all the measures necessary to effectively combat and eliminate ethnic profiling by law enforcement officers, inter alia by clearly defining and prohibiting ethnic profiling by law and providing mandatory training on cultural awareness and the inadmissibility of ethnic profiling to law enforcement personnel. It should also investigate misconduct on the basis of ethnic discrimination, and sanction perpetrators adequately.

Stateless persons

8. The Committee is concerned about the number of stateless persons, mainly Roma, under the State party's jurisdiction who face difficulties in meeting the requirements for obtaining Croatian citizenship because they often lack personal identity documents. The Committee is particularly concerned about persons who became stateless further to the break-up of the Socialist Federal Republic of Yugoslavia. The Committee considers that this situation creates an impediment for one of the most vulnerable groups, the Roma, to enjoyment of a range of human rights, including those under the Covenant, and prevents them from benefiting, inter alia, from social services, social benefits and adequate housing, and also limits their access to employment (arts. 2, 24 and 26).

The State party should take all the measures necessary to ensure full enjoyment of Covenant rights by all residents, including stateless persons. It should establish and implement effective measures to address statelessness and regularize the status of the Roma, including by facilitating access to identification documentation. The State party should also increase its efforts to ensure non-discriminatory access to adequate housing, social benefits and services for all victims of past conflicts under its jurisdiction, including the Roma.

Hate crimes

9. While welcoming the establishment of the Working Group for Monitoring Hate Crimes, the Committee recalls its previous recommendations (see CCPR/C/HRV/CO/2, para. 5) and reiterates its concern about the continued reports of racist attacks against members of ethnic minority groups, particularly Roma and Serbians. The Committee is also concerned about the lack of adequate investigation and prosecution and of adequate compensation for the victims (arts. 2 and 27).

The State party should strengthen its efforts to combat racist attacks committed by law enforcement personnel, particularly against the Roma and Serbians by, inter alia, providing special training to law enforcement personnel aimed at promoting respect for human rights and tolerance for diversity. The State party should also strengthen its efforts to ensure that the alleged perpetrators of racist attacks are thoroughly investigated and prosecuted and, if convicted, punished with appropriate sanctions, and that the victims are adequately compensated.

Discrimination on the grounds of sexual orientation and gender identity

10. The Committee is concerned about the prevalence of stereotypes and prejudice against lesbian, gay, bisexual and transgender persons. It is particularly concerned about reports of acts of violence against such persons and about the lack of effective investigation and prosecution (arts. 2 and 26).

The State party should step up its efforts to combat stereotypes and prejudice against lesbian, gay, bisexual and transgender persons, including by launching an awareness-raising campaign aimed at the general public and providing appropriate training to public officials with a view to putting an end to the social stigmatization of such persons. The State party should ensure that all reports of violence against lesbian, gay, bisexual and transgender persons are effectively investigated and that the perpetrators of violence based on sexual grounds are prosecuted and sanctioned.

Accountability for past human rights violations

11. The Committee is concerned about the numerous cases of impunity for serious human rights violations committed during the armed conflict and reiterates its previous recommendations (see CCPR/C/HRV/CO/2, para. 10). While appreciating efforts to deal

with war crime cases, the Committee notes with regret the slow pace of investigations into such crimes and notes with concern that few investigations have led to prosecutions resulting in the punishment of those responsible. The Committee takes note of the information provided by the delegation concerning the criteria for the prosecution of war crimes, but also notes that the selection of cases (including the former focus on in absentia cases) apparently remains disproportionally directed at ethnic Serbs. The Committee is also concerned about the difficulties faced by individuals trying to obtain compensation from the State party for human rights violations during the conflict, in particular for war crimes (arts. 2, 6 and 7).

The State party should expedite the prosecution of cases of war crimes and crimes against humanity and ensure that all such cases are prosecuted in a non-discriminatory manner, regardless of the perpetrator's ethnicity. The State party should also ensure that all victims and their families receive adequate reparation for such violations.

Disappeared persons

12. The Committee notes with regret that the fate and whereabouts of approximately 1,600 persons who went missing during the war remain unresolved. The Committee also notes with concern the lack of transparency with regard to the methodology used in the selection of regions for investigation and exhumations (arts. 2, 6 and 7).

The State party should take immediate and effective steps to investigate all unresolved cases of missing persons and bring the perpetrators to justice. The State party should take all the measures necessary to ensure that exhumation activities are based on objective criteria and conducted in a transparent manner. It should ensure that the relatives of disappeared persons have access to information about the fate of the victims.

Asylum seekers and refugees

13. The Committee remains concerned that a considerable number of refugees, returnees and internally displaced persons have still not been resettled and continue to reside in collective shelters. The Committee notes with regret that the implementation of the housing care programme has slowed down since 2012 (arts. 2 and 12).

The Committee reiterates its previous recommendations (see CCPR/C/HRV/CO/2, para. 6) and recommends that the State party expedite efforts towards the resettlement and return of refugees, returnees and internally displaced persons.

Gender equality

14. The Committee recalls its previous recommendations (see CCPR/C/HRV/CO/2, para. 7) and notes with concern that women remain underrepresented in both the public and private sectors, particularly in decision-making positions. The Committee is also concerned at the persistence of stereotypes with respect to the position of women in society, including women in rural areas and women with disabilities (arts. 2, 3 and 26).

The State party should step up its efforts to increase the participation of women in the public and private sectors, if necessary through appropriate temporary special measures to give effect to the provisions of the Covenant. The State party should take the practical steps necessary to eradicate stereotypes regarding the position of women in society in general and regarding women in rural areas and women with disabilities in particular.

Gender-based violence

15. While commending the State party for criminalizing domestic violence in its Criminal Code, the Committee notes with concern the inconsistent application of penalties on account of the fact that domestic violence can also be defined as a misdemeanour. The Committee is concerned about reports that cases are not investigated, that suspects are not prosecuted and that perpetrators receive lenient sentences. In particular, the Committee is concerned about recurrent reports that both the perpetrator and the victim in cases of domestic violence are arrested and convicted. The Committee is also concerned about the small number of women benefiting from the free legal aid system, the small number of protection measures issued and the lack of follow-up to protection orders, rendering them largely ineffective. Furthermore, the Committee is concerned about the insufficient number of shelters for victims of domestic violence. The Committee notes with regret the absence of statistical data on acts of domestic violence (arts. 3 and 7).

The State party should:

(a) Adopt a comprehensive approach to preventing and addressing violence against women in all its forms;

(b) Step up its awareness-raising measures among the police, judiciary, prosecutors, community representatives, women and men on the magnitude of domestic violence and its detrimental impact on the lives of victims;

(c) Ensure that cases of domestic violence are thoroughly investigated by the police, that the perpetrators are prosecuted, and if convicted, punished with appropriate sanctions, and that victims are adequately compensated;

(d) Eliminate the practice of arresting and convicting both the perpetrator and the victim in cases of domestic violence;

(e) Ensure the issuance of effective protective orders to guarantee the safety of victims and ensure that measures are in place to follow up on protection orders;

(f) Ensure the availability of a sufficient number of shelters with adequate resources;

(g) Collect data on incidents of domestic violence against women and, on the basis of such data, continue to develop sustainable strategies to combat this human rights violation.

Persons with disabilities

16. The Committee welcomes the fact that the use of enclosed restraint beds (cages/net beds), as a means to restrain mental health patients has been abolished. While noting the recent adoption of the Act on the Protection of Persons with Mental Disorders (2015), the Committee is concerned about reports of excessive and prolonged use of involuntary hospitalization for persons with intellectual or psychosocial disabilities (arts. 7 and 9).

In the light of the Committee's general comment No. 35 (2014) on liberty and security of person, the State party should ensure that deprivation of liberty is applied only as a measure of last resort and for the shortest appropriate period of time and that it is accompanied by adequate procedural and substantive safeguards established by law. The State party should ensure respect for the views of the individual and ensure that any representative genuinely represents and defends the wishes and interests of the individual. Furthermore, the State party should establish an independent monitoring and reporting system, and ensure that abuses are effectively investigated and prosecuted and that redress is provided to the victims and their families. The State party should promote psychiatric care aimed at preserving the dignity of patients,

both adults and minors, and develop a plan for deinstitutionalization, including appropriate outpatient and community-based care programmes.

Trafficking in persons

17. The Committee takes note of reports indicating retrogression with regard to measures taken to combat trafficking in persons. The Committee is also concerned that trafficking in persons persists in the State party. The Committee is further concerned about the small number of prosecutions and the leniency of the sentences imposed on traffickers (art. 8).

The State party should vigorously pursue its public policy to combat trafficking. It should continue its efforts to raise awareness of and combat trafficking in persons, including at the regional level and in cooperation with neighbouring countries. The State party should train its police officers, border control personnel, judges, lawyers and other relevant personnel in order to raise awareness of the matter and of the rights of victims. It should ensure that all individuals responsible for trafficking in persons are prosecuted and punished commensurately with the crimes committed, and that victims of trafficking are compensated and rehabilitated. Furthermore, the State party should step up its efforts to identify victims of trafficking and ensure the systematic collection of data on trafficking, which should be disaggregated by age, sex and ethnic origin and should also be focused on trafficking flows from, to and through its territory.

Free legal aid

18. While noting the adoption of the new Free Legal Aid Act (2014), the Committee is concerned about the accessibility of free legal aid for the most vulnerable groups (art. 14).

The State party should continue to strengthen its free legal aid scheme in order to provide for free legal aid in all cases where the interests of justice so require. The State party should provide adequate resources for the free legal aid system and introduce mechanisms for monitoring the quality of legal assistance provided.

Conditions of detention

19. While noting the State party's efforts to construct and refurbish places of deprivation of liberty in order to improve conditions, the Committee recalls its previous recommendations (see CCPR/C/HRV/CO/2, para. 13) and reiterates its concern regarding the persistence of poor conditions in detention facilities, including overcrowding in some detention centres and inadequate access to health services. The Committee is particularly concerned about the conditions at Zagreb County Prison (art. 10).

The State party should strengthen measures to address overcrowding in detention centres and prisons, including through increased resort to alternative forms of punishment. It should also ensure that new facilities meet international standards, by allocating sufficient resources for their construction and operation. The State party should scrutinize the conditions of detention in prisons, in particular Zagreb County Prison, with a view to guaranteeing that persons deprived of their liberty are treated in accordance with the requirements of article 10 of the Covenant and the Standard Minimum Rules for the Treatment of Prisoners.

Unaccompanied and separated migrant children

20. The Committee is concerned about the reported neglect of the situation of unaccompanied and separated migrant children in the country. The Committee notes with

concern that no clear criteria for appointing guardians are established under the existing legal procedures for appointing guardians (art. 24).

The State party should develop a procedure to address the specific needs of unaccompanied non-citizen children and to ensure that their best interests are upheld in the course of any immigration, expulsion or related proceedings. The State party should establish clear criteria for appointing guardians and take all the measures necessary to ensure that guardianships for unaccompanied minors are assigned to persons who will represent the minors' best interests.

Discrimination against Roma

21. The Committee recalls its previous recommendations (see CCPR/C/HRV/CO/2, para. 19) and reiterates its concern regarding the de facto discrimination against Roma. The Committee is particularly concerned about continued reports of de facto segregation of Roma children in the education sector and about the lack of opportunities to receive instruction in their languages. The Committee is also concerned about statistics suggesting a limited level of enjoyment of rights by the Roma and Serbians in the areas of access to housing, health care, employment and participation in the conduct of public affairs, among others (arts. 2 and 24-27).

The State party should take immediate steps to eradicate the segregation of Roma children in its education system by ensuring that placement in schools is carried out on an individual basis and is not influenced by the child's ethnic group. The State party should step up efforts to ensure that Roma children can receive an education, in their mother tongue, that is of the same quality and content as that of other students. The State party should also take practical measures to improve the rights of Roma with regard to access to housing, health care, employment and participation in the conduct of public affairs.

Rights of minorities

22. The Committee is concerned that persons belonging to national minorities face problems in enjoying the right, in community with other members of their group, to use their own languages, particularly those in Cyrillic script (art. 27).

The State party should undertake additional measures, including positive measures, to promote inter-ethnic tolerance in its diverse society, and fully implement the right to equal usage of minority languages and scripts in accordance with its constitutional and legal framework, with special emphasis on the usage of Cyrillic script in the city of Vukovar and other municipalities concerned.

Freedom of expression

23. With regard to its previous concluding observations (see CCPR/C/HRV/CO/2, para. 17), the Committee remains concerned about the absence of sufficient investigations into all acts of intimidation against, and attacks on, journalists. It is also concerned about the criminalization of defamation, which discourages the media from publishing critical information on matters of public interest, and which is a threat to freedom of expression and access to information of all kinds (arts. 6, 7 and 19).

The State party should guarantee freedom of expression and freedom of the press, as enshrined in article 19 of the Covenant and elaborated on in the Committee's general comment No. 34 (2011) on the freedoms of opinion and expression. It should also consider decriminalizing defamation and should restrict the application of criminal law to the most serious cases, bearing in mind that imprisonment is never an appropriate punishment in such cases. Furthermore, the State party should

investigate incidents of attacks on journalists and the media, and bring those responsible to justice.

24. The State party should widely disseminate the Covenant, the two Optional Protocols to the Covenant, the text of its third periodic report and the present concluding observations among the judicial, legislative and administrative authorities, civil society and non-governmental organizations operating in the country, and the general public. The State party should ensure that the report and the present concluding observations are translated into Croatian and the minority languages of the State party.

25. In accordance with rule 71, paragraph 5, of the Committee's rules of procedure, the State party should provide, within one year, relevant information on its implementation of the recommendations made by the Committee in paragraphs 11, 13 and 23 above.

26. The Committee requests the State party to submit its next periodic report by 2 April 2020 and to include specific, up-to-date information on the implementation of all its recommendations and on the Covenant as a whole. The Committee requests the State party, in the preparation of the report, to broadly consult civil society and non-governmental organizations operating in the country. Further to the State party's acceptance of the simplified reporting procedure, the Committee will, in due course, transmit to the State party a list of issues prior to reporting, the responses to which will be considered as its next periodic report. The word limit for the report is 21,200 words, in accordance with General Assembly resolution 68/268.